

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RUBIK'S BRAND LIMITED,

Plaintiff,

-against-

FLAMBEAU, INC.

Defendant.

Civil Action No. 1:17-cv-6559 (PGG)

**PLAINTIFF'S APPENDIX TO COUNTERSTATEMENT OF MATERIAL FACTS
TO DEFENDANT FLAMBEAU, INC.'S RULE 56.1
STATEMENT OF MATERIAL FACTS**

EXHIBIT	DESCRIPTION	BATES RANGE
75	Declaration of David Kremer	
76	Declaration of Holly Riehl	
77	Declaration of Darren W. Saunders	
78	RUBIK'S brand presentation regarding the history of the RUBIK'S CUBE, dated 2010	RBL_002974- RBL_003316
79	<i>Ideal Toy Corp v Chinese Arts And Crafts Inc</i> , 530 F.Supp. 375 (1981).	
80	<i>Ideal Toy Corp. v. Plawner Toy Mfg. Corp.</i> , No. 81-1431, 1981 WL 48162 (D.N.J. Oct. 20, 1981), <i>aff'd as modified</i> , 685 F.2d 78 (3d Cir. 1982).	
81	<i>Ideal Toy Corp. v. Plawner Toy Mfg. Corp.</i> , 685 F.2d 78 (3d Cir. 1982).	
82	<i>CBS Inc. v. Logical Games, Inc.</i> , No. CIV.A. 82-0473-A, 1982 WL 52131 (E.D. Va. Dec. 28, 1982), <i>aff'd sub nom. CBS, Inc. v. Logical Games</i> , 719 F.2d 1237 (4th Cir. 1983).	
83	<i>CBS, Inc. v. Logical Games</i> , 719 F.2d 1237 (4th Cir. 1983).	
84	Photographs of 3x3 twisty puzzles with a white grid seized by U.S. Customs and Border Protection	
85	Article, "After More Than 40 Years, Rubik's Continues to Puzzle America" and RUBIK'S Brand advertisement, February 2015 issue of The Toy Book magazine	RBL_003554- RBL_003557

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86	Photographs of the RUBIK'S CUBE Light	RBL_002739- RBL_002742
87	RBL Newsletter to Licensees, dated 2014	RBL_008692- RBL_008677
88	Article, "Rubik's and PUMA Celebrate the World's Best-Selling Toy," SNEAKERS MAGAZINE, dated Oct. 1, 2019	
89	RBL Newsletter to Licensees, dated 2013	RBL_008676- RBL_008677
90	RBL Newsletter to Licensees, July 2016	RBL_008415- RBL_008428
91	RBL Newsletter to Licensees, April 2016	RBL_008406- RBL_008414
92	Presentation re RUBIK'S Brand, dated 2011	RBL_003317- RBL_003347
93	Rubik's Usage Agreements for 2015	RBL_006454
94	Rubik's Usage Agreements for 2016	RBL_006455
95	Rubik's Usage Agreements for 2017	RBL_006456
96	RBL Newsletter to Licensees, dated 2013	RBL_008674- RBL_008675
97	Poster re Snowden film premiere	RBL_002714
98	RBL Newsletter to Licensees, dated 2016	RBL_000215- RBL_000229
99	Tiger Beat Celebrity Spectacular Magazine re Justin Bieber	RBL_009006- RBL_009007
100	RUBIK'S brand Product Book for 2017	RBL_000237- RBL_000312
101	RBL Newsletter to Licensees, dated 2014	RBL_008690- RBL_008691
102	Photograph of actress Zsa Zsa Gabor	RBL_008462
103	Photographs of YCDTRC New England Tournament at the Museum of Science in Boston, dated 2011 (Patriot Ty Law)	RBL_004324, RBL_004452, RBL_004541, RBL_004617
104	Photographs of YCDTRC competition at the Las Vegas Science Festival, dated 2011 (Carrot Top)	RBL_004142, RBL_004143, RBL_004150, RBL_004172, RBL_004173
105	Press release re the YCDTRC competition at the Las Vegas Science Festival, dated May 6, 2011	RBL_004237- RBL_004238
106	New York Times Article, "Learning Math From the Rubik's Cube," dated Nov. 19, 2009	RBL_003618

EXHIBIT	DESCRIPTION	BATES RANGE
107	Article, “Artist Creates Gigantic Pop Culture Portraits From Thousands of Rubik’s Cubes,” MY MODERN MET, dated Jan. 27, 2020	
108	Letter from the Museum of Modern Art, dated May 29, 1981	RBL_000338
109	National Toy Hall of Fame webpage re RUBIK’S CUBE	
110	RBL Newsletter to Licensees, dated 2014	RBL_008678- RBL_008686
111	Presentation re Summary Review of the Rubiks.com Website and RBL’s Social Media, dated 2014	RBL_009160- RBL_009164
112	Article, “All-TIME 100 Greatest Toys,” TIME MAGAZINE, dated Feb. 16, 2011	
113	Article, “The 13 Most Influential Toys of All Time,” TIME MAGAZINE, Dated Oct. 29, 2014	
114	Article, “The 60 greatest kids' toys ever invented,” INSIDER, dated Aug. 25, 2017	
115	Promotional materials for the “Beyond Rubik’s Cube” Exhibition, dated 2015	RBL_002759
116	Promotional materials for the “Beyond Rubik’s Cube” Exhibition, dated 2015	RBL_002760- RBL_002762
117	Promotional materials for the “Beyond Rubik’s Cube” Exhibition, dated 2013	RBL_008589- RBL_008625
118	Photographs from the “Beyond Rubik’s Cube” Exhibition	RBL_004265, RBL_004274, RBL_004275, RBL_004277
119	RUBIK’S Brand Summary Deck	RBL_009008- RBL_009027
120	Report of RBL’s Social Media, dated March 2018	RBL_000324- RBL_000337
121	RUBIK’S Brand Consumer Demographic/Psychographic Survey, dated November 2014	RBL_007440- RBL_007445
122	Photographs of RUBIK’S Brand Promotions	RBL_003620- RBL_003622
123	Flyer for the YCDTRC Lending Program	RBL_003678
124	Photographs of YCDTRC Kits	RBL_002725- RBL_002727
125	YCDTRC Mosaic template	RBL_002883- RBL_002966
126	Photograph of Large Scale Mosaic created from 3x3 RUBIK’S CUBES	RBL_002968
127	Photographs of YCDTRC at Coe College in Cedar Rapids, Iowa	RBL_003819- RBL_003820
128	Photographs of YCDTRC at MCA of Greater Boston	RBL_003856, RBL_003862

EXHIBIT	DESCRIPTION	BATES RANGE
129	YCDTRC Program Income and Expenditures, 2008-2012	RBL_007430
130	RBL Marketing Fee Invoice to Hasbro, dated April 2017	RBL_008948
131	RBL Marketing Fee Invoice to Hasbro, dated July 2017	RBL_008949
132	RBL Marketing Fee Invoice to Hasbro, dated June 2016	RBL_008955
133	Photograph of Hasbro RUBIK'S CUBE themed game show	RBL_004103
134	YCDTRC Program update, dated October 2016	RBL_007949- RBL_004968
135	Web traffic and SEO analysis for the YCDTRC website, dated 2010	RBL_006752- RBL_006809
136	Media Tracker for the YCDTRC Program, dated 2011	RBL_006717
137	YCDTRC Program Competition Rules	RBL_009094- RBL_009105
138	Photographs of YCDTRC Program Promotional Booths	RBL_00386, RBL_003724, RBL_003738
139	Proposal to Host YCDTRC Program Competition	RBL_006263- RBL_0062564
140	Website Visitor Analysis for 2016 vs. 2017, dated Feb. 13, 2018	RBL_007459- RBL_007465
141	RBL Newsletter to Licensees, dated 2014	RBL_008687- RBL_008688
142	Summary of Sales for the 3x3 RUBIK'S CUBE, 2013-2017	RBL_006453
143	Summary of Media Coverage of the 2017 World Championship	RBL_006451- RBL_006453
144	Press releases re 2017 World Championship	RBL_006425- RBL_006427
145	Press releases re 2017 World Championship	RBL_006422- RBL_006424
146	Photograph from 2017 World Championship	RBL_006308
147	Summary of Media Coverage of the 2013 RUBIK'S CUBE World Championship	RBL_005900- RBL_005930
148	Photographs from the 2013 World Championship	RBL_005601, RBL_005615, RBL_005623, RBL_005628
149	RUBIK'S CUBE Coverage Report, dated 2015	RBL_008077
150	Red Bull RUBIK'S CUBE Word Championship Guidelines	RBL_006076- RBL_006088
151	Photograph of store check	RBL_009116
152	Photograph of store check of Toys "R" Us, dated Sept. 2017	RBL_006110
153	Photograph of store check of Toys "R" Us	RBL_009120

EXHIBIT	DESCRIPTION	BATES RANGE
154	RBL Website re 3x3 RUBIK'S CUBE, last visited Aug. 5, 2020	
155	Hasbro Website re 3x3 RUBIK'S CUBE, last visited Aug. 5, 2020	
156	Winning Moves Website re 3x3 RUBIK'S CUBE, last visited Aug. 5, 2020	
157	Duncan Website re Quick Cube, last visited Aug. 5, 2020	
158	Summary of RBL's target demographic, dated 2015	RBL_006830- RBL_006838
159	Summaries of RBL's target demographic	RBL_009173- RBL_009188
160	RBL Presentation to Hasbro	RBL_006810- RBL_006814
161	Flambeau Project Summary re Duncan Quick Cube, dated June 15, 2015	FLAMBEAU001091- FLAMBEAU001093
162	Deposition Transcript Excerpts of Michael Burke, Aug. 16, 2018	
163	3x3 RUBIK'S CUBE	FLAMBEAU001447
164	Deposition Transcript Excerpts of Lee Loetz, Dec. 18, 2018	
165	Flambeau Quick Cube Presentation	FLAMBEAU000893- FLAMBEAU000895
166	WCA Website re "About the WCA"	FLAMBEAU002505- FLAMBEAU002506
167	Deposition Transcript Excerpts of Richard Gottlieb, Jan. 18, 2019	
168	Quick Cube Quality Inspection Report, dated July 27, 2015	FLAMBEAU000918- FLAMBEAU000927
169	Duncan Quick Cube Customer Email, January 2018	FLAMBEAU001489- FLAMBEAU001491
170	SGS Test Report, dated March 15, 2016	FLAMBEAU002729- FLAMBEAU002736
171	Expert Report of William F. Kitzes, dated Jan. 23, 2019	
172	Supplemental Deposition Transcript Excerpts of Michael Burke, Nov. 29, 2018	
173	Deposition Transcript Excerpts of Bennett Berson, Aug. 15, 2018	
174	Yongjun Toy Catalog	FLAMBEAU000714- FLAMBEAU000730
175	Casino Cube puzzle	
176	Emoji Cube puzzle	
177	Dice Cube puzzle	
178	Numbers Cube puzzle	
179	Squares and Circles Cube puzzle	FLAMBEAU001458

EXHIBIT	DESCRIPTION	BATES RANGE
180	Colored Circles Cube puzzle	
181	Rebuttal Expert Report of Richard Gottlieb, dated Jan. 7, 2019	
182	Sponge Bob Cube puzzle	FLAMBEAU000512
183	Disney Cube puzzle	FLAMBEAU000886
184	Mirror Cube puzzle	FLAMBEAU0001455
185	DianSheng Case Cube	FLAMBEAU000491- FLAMBEAU000493
186	Redi Cube puzzle, Amazon	FLAMBEAU000433- FLAMBEAU000440
187	Redi Cube puzzle	FLAMBEAU001461
188	Deposition Transcript Excerpts of Dana Roberts, Aug. 14, 2018	
189	Quick Cube Packaging Design Request Form, dated June 8, 2015	FLAMBEAU002606
190	3x3 RUBIK'S Speed Cube Webpage	FLAMBEAU002577- FLAMBEAU002585
191	Rubik's Mirror Block	
192	Ruwix Website re "Speedcubing"	
193	Article, Ian Scheffler, "Cracking The Cube, Going Slow To Go Fast and Other Unexpected Turns In The World Of Competitive Rubik's Cube Solving"	FLAMBEAU002117- FLAMBEAU002400
194	Deposition Transcript Excerpts of Jessie Roberts, dated Dec. 12, 2018	
195	Expert Rebuttal Report of Rebuttal Expert Report of Rany L. Simms, dated Jan., 7, 2019	

Respectfully submitted,

Dated: New York, New York
August 5, 2020

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on August 5, 2020, by electronic mail on counsel of record for Defendant, pursuant to Fed. R. Civ. P. 5(b)(2)(E) and Judge Gardephe's Rule IV.C:

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